



**THE STATE BAR
OF CALIFORNIA**

OFFICE OF PROFESSIONAL COMPETENCE,
PLANNING & DEVELOPMENT

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: (415) 538-2161

DATE: September 27, 2004
TO: Members of the Commission for the Revision of the Rules of Professional Conduct
FROM: Lauren McCurdy
SUBJECT: Agenda for Your Meeting on Friday, October 8, 2004 in Monterey

Enclosed, please find the agenda materials for your October 8, 2004 meeting.

The meeting is scheduled as follows:

Friday, October 8, 2004
(9:00 am - 5:00 pm)

Portola Plaza Hotel Monterey
Redwood 1 Room
2 Portola Plaza
Monterey, CA 93940

IMPORTANT DEADLINE: Please note that members must provide their comments concerning the following rule drafts no later than Tuesday, October 5, 2004 or the foregoing proposed draft rules will be deemed tentatively approved: Rule 2-100 (Item III.B., pages 77 - 94), Rule 2-200 (Item III.C., pages 95 - 104); Rule 1-400 (Item III.H., pages 175 - 206). Absent extenuating circumstances, only issues raised in e-mails sent no later than Tuesday, October 5, 2004, will be considered at the meeting.

Absent extenuating circumstances, only issues previously raised with regard to Rules 2-300 and 3-200 will be considered at the meeting. (See proposed assignment agenda sent on September 9, 2004.)

ATTENDANCE: In order to ensure that there is a quorum and adequate participation, if you are unable to attend in-person, please contact staff to make arrangements by telephone. As always, notify staff if you are unable to attend a meeting under any circumstances.

FUTURE MEETINGS: Following the poll of the Commission members, two future meetings for the 2004 calendar year have been set. Please mark your calendars with the following meeting dates:

November, 19, 2004 - Los Angeles State Bar Offices
December 10, 2004 - Video-Conference SF and LA State Bar Offices

REMINDERS FROM THE CHAIR

1. The lead drafter is responsible for getting the assignment to staff in time for the agenda distribution. If that person cannot timely complete the assignment, he or she must get a substitute who will complete the assignment on time and advise staff and the chair of this substitution.
2. If a person has not sent comments on an agenda item by e-mail prior to the meeting, he or she may, at the Chair's discretion, only get one opportunity to comment on that agenda item. Anyone sending e-mail comments on an agenda item should send copies to all Commission members, staff and our consultant. Please note: all e-mails exchanged will be made part of the open session agenda materials; and, members who send e-mails will not be bound by the positions taken therein as the deliberative process at the meeting will not be constrained or prejudiced by the exchange of e-mails.
3. It is anticipated that the following items will be on the November 19, 2004 meeting agenda. Please be sure to submit your materials to staff by the October 25, 2004 deadline.
 - a. Rule 2-400 (Peck-lead, George, Martinez)
 - b. Rule 3-110 (Vapnek-lead, Peck, Ruvolo)
 - c. Rule 3-120 (Ruvolo-lead, Foy, Julien)
 - d. Rule 3-210 (Tuft-lead, Foy, George) - new rule assignment
 - e. Rule 3-310 (Foy-lead, Peck, Melchior) - new rule assignment
 - f. Counterpart to 1-310X re lawyers influencing lawyers (Ruvolo (lead), Tuft, Vapnek, Mohr)
 - g. Consideration of Kurt's concern regarding clients having to waive attorney-client privilege (Melchior-lead, Julien, Tuft)
 - h. Rule 1-310X (Tuft-lead, Martinez, Peck) Mark Tuft has already prepared materials for this item.

/Imm
enclosures
cc: Marie Moffat

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

OPEN SESSION

Friday, October 8, 2004

(NOTE: Meeting starts at 9:00 am see closed agenda.)

9:15 am - 12:30 and 1:00 - 5:00 pm

Portola Plaza Hotel Monterey
Redwood 1 Room
2 Portola Plaza
Monterey, CA 93940

[NOTE RE MEETING SITE: Members of the public who wish to attend this meeting are asked to call Audrey Hollins at 415-538-2167.]

I. APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE AUGUST 27 & 28, 2004 MEETING

(Draft action summary for the August 27 & 28, 2004 meeting to be circulated prior to the October meeting.)

II. REMARKS OF CHAIR

A. Chair's Report

(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

B. Staff's Report

(Staff will report on the activities of COPRAC and the Board of Governors.)

III. **MATTERS FOR ACTION** (Name with asterisk is lead drafter, underline indicates a newly added co-drafter.)

*Lamport
Julien
Melchior

- A. **Consideration of Rule 1-100. Rules of Professional Conduct, in General**
[anticipated 1-1/2 hour discussion]
(Materials enclosed. Additional materials to be distributed prior to meeting.) **[pages 1 - 76]**

*Martinez,
Betzner,
Voogd

- B. **Consideration of Rule 2-100. Communication With a Represented Party**
[anticipated 1/2-hour discussion]
(Members must provide their comments concerning this rule draft **no later than Tuesday, October 5, 2004** or the proposed draft rule will be deemed tentatively approved. Materials enclosed.) **[pages 77 - 94]**

*Lamport,
Julien,
Vapnek

- C. **Consideration of Rule 2-200. Financial Arrangements Among Lawyers**
[anticipated 1-hour discussion]
(Members must provide their comments concerning this rule draft **no later than Tuesday, October 5, 2004** or the proposed draft rule will be deemed tentatively approved. Materials enclosed.) **[pages 95 - 104]**

*Tuft
Betzner
Martinez
Peck

- D. **Law Firm Definition** (previously considered as part of proposed new rule 1-310X and proposed amended rule 2-200)
[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 105 - 110]**

*Melchior
Martinez
Sapiro

- E. Consideration of Rule 2-300. Sale or Purchase of a Law Practice of a Member, Living or Deceased**
[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 111 - 160]**

*Voogd
George
Tuft

- F. Consideration of Rule 3-200. Prohibited Objectives of Employment**
[anticipated 1/2-hour discussion]
(Materials enclosed.) **[pages 161 - 168]**

*Lamport
Tuft
Voogd

- G. Consideration of Rule 3-300. Avoiding Interests Adverse to a Client**
[anticipated 1-hour discussion]
(Materials enclosed.) **[pages 169 - 174]**

*Mohr
George
Julien
Ruvolo

- H. Consideration of Rule 1-400. Advertising and Solicitation**
[anticipated 1/2-hour discussion]
(Members must provide their comments concerning this rule draft **no later than Tuesday, October 5, 2004** or the proposed draft rule will be deemed tentatively approved. Materials enclosed.) **[pages 175 - 206]**

*Mohr,
Staff

- I. Discussion of Rule Numbering System**
[anticipated 1/2-hour discussion]
(Matter carried over from July 9, 2004 and August 27 & 28, 2004 meetings. Previously distributed materials enclosed.) **[pages 207- 276]**

STATE BAR OF CALIFORNIA
COMMISSION FOR THE REVISION OF THE RULES
OF PROFESSIONAL CONDUCT

CLOSED SESSION*

Friday, October 8, 2004
(9:00 am - 9:15 am)

Portola Plaza Hotel Monterey
Redwood 1 Room
2 Portola Plaza
Monterey, CA 93940

I. APPROVAL OF CLOSED SESSION SUMMARY FROM THE AUGUST 27 & 28, 2004 MEETING

(Draft action summary to be circulated prior to October meeting.)

II. STAFF REPORT – INFORMATION ITEMS

III. ADVICE OF COUNSEL ON OPEN SESSION AGENDA ITEMS

IV. ACTION ITEMS.

A. Emergency action items, if any.

* Closed pursuant to Article 3, Section 2, Subdivision (b), Rules Governing Open Meetings, Closed Sessions and Records of the Board of Governors.